THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.10919 OF 2000

-

DATED 23.11.2005

BETWEEN

M/s. Raj Theatre, Railway Station Road

Kurnool and others

… Petitioners

and

Government of Andhra Pradesh

Rep. by its Principal Secretary,

Home Department, Secretariat, Hyderabad

… Respondent

-

WRIT PETITION NO.1521 OF 2001

BETWEEN

M/s. Mayuri Theatre, Nandigam

Krishna District, rep. by its Partner

G. Raghu Babu, S/o.G.Venkateswara Rao

R/o. Jaggaiahpeta

… Petitioner

and

The Films Division, Ministry of Information & Broadcasting

Rep. by its Branch Manager, Gandhinagar

Vijayawada and another

… Respondents

WRIT PETITION NO.7919 OF 2002

BETWEEN

M/s. Vijayalakshmi Talkies,

Ameerpet, Hyderabad, represented by its

Managing Partner, P.Parameswar Yadav

and others

… Petitioners

and

The Films Division, Ministry of Information & Broadcasting

Rep. by its Branch Manager, Gandhinagar

Vijayawada and another

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.10919 of 2000, 15121 of 2001

and 7919 of 2002

COMMON ORDER:

In all these petitions, petitioners are owners of cinema theatres. They were granted licences under A.P.Cinemas (Regulation) Act, 1955 and A.P.Cinemas (Regulation) Rules, 1970. They are aggrieved by the action of respondents 1 and 2 in calling for the statement of accounts from 01.07.1994 onwards for the purpose of fixing rentals for exhibition of approved short films. The question that arises for consideration is whether condition No.42 of Conditions of licence, which requires a licensee to comply with the directions of the Government in the matter of screening short films in the course of any performance, is mandatory or not. The Division Bench of this Court, to which I was a member, by Judgment in Writ Appeals and Writ Petitions, being W.A.No.298 of 2001 and batch, dated 21.08.2001, disposed of the similar maters with the following observations and directions.

> An agreement can be express or implied. If short films have been supplied to the appellants they would irrespective of the legal position are liable to pay the amount in question to the Films Division. Even if the conditions of the licence as contended by the appellants were found to be invalid, they would still be liable in terms of Sections 65 and 70 of the Indian Contract Act. In fact, on their own showing the appellants had also been paying the said amount after the decision of the Supreme Court. We, therefore, are of the opinion that the liability of the appellants has to be determined on resolution of the dispute as to whether short films had been supplied to them or not. Such dispute has to be determined in an appropriate forum and not in a writ proceeding. It is needless to say that the State cannot refuse to renew the cinematograph licences of the appellants unless conditions precedent therefore are not satisfied.

Following the Division Bench Judgment, these writ petitions are also disposed of with the observations as above. There shall be no order as to costs.

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(V.V.S.RAO,J)

23.11.2005.

pln